

STATE OF CALIFORNIA
STATE AND CONSUMER SERVICES AGENCY
CALIFORNIA BUILDING STANDARDS COMMISSION
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Office Use Item No. _____

PARTICIPATION COMMENTS FOR THE NOTICE DATED AUGUST 29, 2006
Written comments are to be sent to the above address.

WRITTEN COMMENT DEADLINE: OCTOBER 23, 2006

Date: 10/23/06

From:

Mr. Nathan C Vasquez

Name (Print or type)

(Signature)

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Central California Chapter IAPMO Association, Chapter Secretary

Agency, jurisdiction, chapter, company, association, individual, etc.

Street: 780 Commercial Street

City: San Jose

State: CA

Zip: 95112

I/We (do)(do not) agree with:

[X] The Agency proposed modifications As Submitted on Section No. UPC 301.2

and request that this section or reference provision be recommended:

[] Approved [] Disapproved [] Held for Further Study [X] Approved as Amended

by the reviewing Code Advisory Committee.

Suggested Revisions to the Text of the Regulations:

The applicable subsection of Health & Safety Code section 17951, subsection (e) is repeated here for clarity and reads as follows:

Section 17951 (e) (1) The provisions of this part are not intended to prevent the use of any manufactured home, mobile home, multiunit manufactured home, material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by the California Building Standards Code or this part, provided that this alternate has been approved by the building department.

(2) The building department of any city or county may approve an alternate material, appliance, installation, device, arrangement, method, or work on a case-by-case basis if it finds that the proposed design is satisfactory and that each such material, appliance, installation, device, arrangement, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in the California Building Standards Code or this part in performance, safety, and for the protection of life and health.

(3) The building department of any city or county shall require evidence that any material, appliance, installation, device, arrangement, or method of construction conforms to, or that the proposed alternate is at least equivalent to, the requirements of this part, building standards published in the California Building Standards Code, or the other rules and regulations promulgated pursuant to this part and in order to substantiate claims for alternates, the building department of any city or county may require tests as proof of compliance to be made at the expense of the owner or the owner's agent by an approved testing agency selected by the owner or the owner's agent.

Alternative language :

Alternate Materials and Methods of Construction Equivalency. Nothing in this code is intended to prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, effectiveness durability, and safety over those prescribed by this code. Technical documentation shall be submitted to the Authority Having Jurisdiction to demonstrate equivalency. The Authority Having Jurisdiction shall have the authority to approve or disapprove the system method or device when determined to be equivalent or superior. *Reference- Health & Safety Code section 17951, subsection (e)*

Remainder of section adopted as stated in express terms.

Reason: [The reason should be concise if the request is for "Disapproval," "Further Study," or "Approve As Amend" and identify at least one of the 9-point criteria (following) of Health and Safety Code §18930.]

- It is inconsistent with the statutory language in Health & Safety Code section 17951, subsection (e) that controls alternate material approvals for buildings under HCD jurisdiction.
- The new UPC language for section 301.2 (alternate materials) is ambiguous as to whether alternate material approval is discretionary.
- It is inconsistent with the alternate material language found in the Uniform Mechanical Code section 105.0 and NEC 90.4.

HEALTH & SAFETY CODE SECTION 18930

SECTION 18930. APPROVAL OR ADOPTION OF BUILDING STANDARDS; ANALYSIS AND CRITERIA; REVIEW CONSIDERATIONS; FACTUAL DETERMINATIONS

- (a) Any building standard adopted or proposed by state agencies shall be submitted to, and approved or adopted by, the California Building Standards Commission prior to codification. Prior to submission to the commission, building standards shall be adopted in compliance with the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency or state agency that proposes the building standards which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria:
- (1) The proposed building standards do not conflict with, overlap, or duplicate other building standards.
 - (2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.
 - (3) The public interest requires the adoption of the building standards.
 - (4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.
 - (5) The cost to the public is reasonable, based on the overall benefit to be derived from the building standards.
 - (6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.
 - (7) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.
 - (A) If a national specification, published standard, or model code does not adequately address the goals of the state agency, a statement defining the inadequacy shall accompany the proposed building standard when submitted to the commission.
 - (B) If there is no national specification, published standard, or model code that is relevant to the proposed building standard, the state agency shall prepare a statement informing the commission and submit that statement with the proposed building standard.
 - (8) The format of the proposed building standards is consistent with that adopted by the commission.
 - (9) The proposed building standard, if it promotes fire and panic safety as determined by the State Fire Marshal, has the written approval of the State Fire Marshal.